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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,126	04/22/2004	Greg Northrup	NORT-001	7448
34203	7590	08/16/2005		
Michael L. Leetzow, Esq. Michael L. Leetzow, P.A. 5213 SHORELINE CIRCLE SANFORD, FL 32771			EXAMINER ELDRED, JOHN W	
			ART UNIT 3644	PAPER NUMBER

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/830,126	Applicant(s) NORTHRUP, GREG	
	Examiner J. Woodrow Eldred	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 11-19 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, “an arm configured to be” is vague and indefinite since it is unclear if it is attached or merely configured to be as a possibility, but no attachment means have been recited, which would appear to be a required element for the system to function as an element that must be recited in view of the “consisting of” language in the preamble of the claim. The phrase “rest members spaced from one other” is vague and indefinite since if they are “spaced” but have no connecting means (in view of “consisting of”) it is not clear how the structure could function as a firearm support.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 7, 11, 12, 14-16 and 18 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Eppard et al (6,726,163).

See especially Figures 1 and 7. Note that the support cords 22 and 24 are attached to the end of the extendable arm 14. See especially column 8, lines 32-45. Note also that element 151 will inherently meet the claimed limitation of a “rest member” since there is no structure claimed to distinguish over element 151 and clearly something could be “rested” on the element.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eppard et al in view of Devall (5,723,808).

Eppard et al disclose a firearm support system comprising a telescopic extendable arm 94, a flexible support element 22 attached to an end of extendable arm (Figure 7), rest member 20 connected to the support element, and a pivoting support attachment member 10 that accepts a portion of the extendable arm and is attached to a fixed structure (i.e. a tree). Eppard et al fail to disclose the extendable arm could comprise pivoting arm segments. Devall teach that it is known to have pivoting arm segments form the extendable arm of a tree mounted firearm support. See especially Figures 1A and 3A and column 4, lines 13-30 with elements 47 and 58. Motivation to combine is the mere substitution of known extendable arms, with the advantages of increased positioning function available with the plural pivoting elements. To employ the teachings of Devall on the firearm support system of Eppard et al and have pivoting arm segments is considered to have been obvious to one having ordinary skill in the art.

7. Claims 1-4, 7, 11, 12, 14-16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eppard et al in view of Simonek (5,974,719).

Eppard et al disclose a firearm support system comprising a telescopic extendable arm 94, a flexible support element 22 attached to an end of the extendable arm, rest member 20 connected to the support element, and a pivoting support attachment member 10 that accepts a portion of the extendable arm and is attached to a fixed structure (i.e. a tree). Even if it is argued that Eppard et al fail to disclose having a plurality of rest members spaced from one another (as they

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are noted above), then Simonek teaches that it is known to have a plurality of rest members in a firearm support system. See especially Figures 3, elements 16 and 60, and column 3, lines 11-13. Motivation to combine is the teaching that the plural supports allow shooting from different positions (e.g. standing and kneeling). To employ the teachings of Simonek on the firearm support system of Eppard et al and have plural rest members is considered to have been obvious to one having ordinary skill in the art. In regard to claim 19, it is also considered to have the firearm support system of Eppard et al consist of only the claimed elements, since this would involve merely the unobvious removal of some elements with the attendant loss of their functions, which are not required for the support system to be operative. This, of course, is in view of the above 112 rejections considering the requirement for all elements necessary for the invention to be able to function.

In regard to the arguments filed with the Amendment, Simonek is used to teach the concept of gun rests at a plurality of heights for the convenience of the user, not the particular rests. The modification of Eppard et al would involve the addition of the types of rests in Eppard et al, not those of Simonek.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eppard et al in view of Peterson (6,637,708).

Eppard et al disclose a firearm support system comprising a telescopic extendable arm 94, a flexible support element 22 attached to the extendable arm, rest member 20 connected to the support element, and a pivoting support attachment member 10 that accepts a portion of the extendable arm and is attached to a fixed structure (i.e. a tree). Eppard et al fail to disclose the fixed structure to which the support attachment member is attached as being a tree stand. Peterson teaches that it is known to attach a firearm support system directly to a tree stand. See especially Figure 2 and elements 16, 32, and 116 being attached to element 20. Motivation to combine is the mere substitution of known attachment points for a firearm support system with the added advantages of having one combined tree hunting system instead of two and the easier mounting of the support system to the stand upon which the hunter is standing, instead of having to mount it above his head on the tree. To employ the teachings of Devall on the firearm support

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system of Eppard et al and have the support attachment member attached to a tree stand is considered to have been obvious to one having ordinary skill in the art.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eppard et al in view of Devall (5,723,808) and Potts et al (6,425,697).

Eppard et al disclose a firearm support system comprising a telescopic extendable arm 94, a flexible support element 22 attached to the extendable arm, rest member 20 connected to the support element, and a pivoting support attachment member 10 that accepts a portion of the extendable arm and is attached to a fixed structure (i.e. a tree). Eppard et al fail to disclose the extendable arm could comprise a rounded portion with threads to engage the support structure. Devall teach that it is known to have a pivoting extendable arm of a tree mounted firearm support have a rounded portion with is attached within the tube of an attachment member, but fails to teach the rounded portion including threads to engage the support structure. See especially Figure 3B and column 3, line 52-column 4, line 6 with elements 41, 43, and 44. Potts et al teach that it is known to employ threads on the end of a gun rest arm to secure the arm to a support element. See element 16a. Motivation to combine is the mere substitution of known arm attaching means with a type that is inserting within the support means and then secured by the very common means of threads. To employ the teachings of Devall and Potts et al on the firearm support system of Eppard et al and have threaded arm support means is considered to have been obvious to one having ordinary skill in the art.

10. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

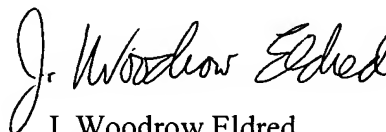
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is 571-273-6901. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Woodrow Eldred
Primary Examiner
Art Unit 3644

JWE